

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**IN RE FIRSTENERGY CORP.  
SECURITIES LITIGATION,**

**This document relates to:**

**Civil Action 2:20-cv-3785  
Chief Judge Algenon L. Marbley  
Magistrate Judge Jolson**

**ALL ACTIONS.**

**ORDER**

This matter is before the Court on the parties' September 6, 2022 Joint Status Report (Doc. 335). The Court notes that the parties appear to have been working together productively, as only one active dispute was raised in the report. Particularly, Lead Plaintiff and Defendant Dowling are involved in a dispute with third-party Partners for Progress, Inc. ("Partners for Progress") regarding its compliance with a subpoena. Given the limited nature of the dispute, the Court does not find that an in-person status conference is immediately necessary, and **VACATES** the status conference set for September 8, 2022, at 11:00am.

Instead, the Court gives Lead Plaintiff, Defendant Dowling, and Partners for Progress an additional fourteen days to revisit whether Partners for Progress will supplement its privilege log. While Partners for Progress identifies some out-of-Circuit authority suggesting its categorical assertions of privilege are sufficient (*see* Doc. 335-1 at 9), the Court notes that the Sixth Circuit has held that, when it comes to assertions of privilege, "conclusory statements are insufficient to meet an objecting party's evidentiary burden." *Cox v. Franklin Cty. Bd. of Comm'rs*, No. 2:18-cv-1631, 2019 WL 6711388, at \*4 (internal quotation marks omitted) (citing *U.S. v. Roxworthy*, 457 F.3d 590, 597 (6th Cir. 2006)). The benefit of a document-by-document privilege log is that it allows the parties, and the Court, to assess the detailed bases for asserting privilege, as well as "the circumstances surrounding the documents' creation," which provide further insight into each

document's purpose and thus its privileged nature. *Id.* (quoting *Roxworthy*, 457 F.3d at 595).

Lead Plaintiff, Defendant Dowling, and Partners for Progress are **ORDERED** to submit a joint status report on or before **September 21, 2022**, updating the Court on the progress of the dispute. If at that time, the parties have not reached agreement as to supplementation of the privilege log, the Court will hold a telephonic status conference to set a briefing schedule as to the threshold issue of creating a privilege log.

IT IS SO ORDERED.

Date: September 7, 2022

/s/ Kimberly A. Jolson  
KIMBERLY A. JOLSON  
UNITED STATES MAGISTRATE JUDGE